

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
APPENDIX**



74-1451

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

B  
P1s

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UNITED STATES OF AMERICA,  
Appellee,

-against-

JOHN MATTHEW BOSTON and  
ERNEST MOORE

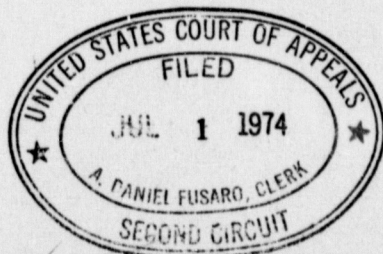
Appellants.  
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APPENDIX FOR APPELLANTS JOHN MATTHEW BOSTON  
AND ERNEST MOORE

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ON APPEAL FROM A JUDGMENT  
OF CONVICTION ENTERED IN  
THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK



DAVID W. MCCARTHY, ESQ.  
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Attorneys for Appellant Boston  
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Mineola, New York 11501  
(516) 746-1616

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - -x

UNITED STATES OF AMERICA

-against-

JOHN MATTHEW BOSTON, also  
known as Sam Boston, ERNEST MOORE,  
also known as "Bill",  
DANIEL EDWARD WASHINGTON and  
STEPHANIE PAIGE BAKER,

Cr No. 71 CR 682  
(T. 18, USC, sec. 2113  
(a)(c)(d), sec 2, sec 3  
and sec 371)

Defendants

- - - - -x

THE GRAND JURY CHARGES:

COUNT ONE

On or about the 2d day of June 1971, within the Eastern District of New York, the defendants JOHN MATTHEW BOSTON, also known as Sam Boston, ERNEST MOORE, also known as "Bill", and DANIEL EDWARD WASHINGTON knowingly and wilfully, by force, violence, and intimidation, did take from the person and presence of employees of the National Bank of North America, 152-80 Rockaway Boulevard, Queens, New York approximately One Hundred Eighty Five Thousand Seven Hundred Eighty Dollars (\$185,780.00), in United States currency, which money was in the care, custody, control, management and possession of the said bank, the deposits of which bank were then and there insured by the Federal Deposit Insurance Corporation.  
(Title 18, United States Code, sec. 2113(a) and sec2.)



COUNT TWO

On or about the 2nd day of June 1971, within the Eastern District of New York, the defendants JOHN MATTHEW BOSTON, also known as Sam Boston, ERNEST MOORE, also known as "Bill", and DANIEL EDWARD WASHINGTON knowingly and wilfully, by force, violence, and intimidation, did take from the person and presence of employees of the National Bank of North America, 152-80 Rockaway Boulevard, Queens, New York approximately One Hundred Eighty Five Thousand Seven Hundred Eighty Dollars (\$185,780.00), in United States currency, which money was in the care, custody, control, management and possession of the said National Bank of North America, the deposits of which bank were then and there insured by the Federal Deposit Insurance Corporation and in commission of this act and offense the defendants JOHN MATTHEW BOSTON, also known as Sam Boston, ERNEST MOORE, also known as "Bill", and DANIEL EDWARD WASHINGTON did assault and place in jeopardy the life of the said bank employees, as well as the lives of other persons present by the use of a dangerous weapon. (Title 18, United States Code, sec. 2113(d) and sec. 2.)

D. C. Form No. 100  
CRIMINAL DOCKET

7-10-71 73CR145 sub. 7 CR 145/17  
6 & 2 73CR78 COSTANTINO

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For <del>xxx</del> defts. BOSTON & Leonard H. Kaplan
vs.	44 Court St.
X JOHN MATTHEW BOSTON also known as Sam Boston.	Bklyn, NY
ERNEST MOORE, also known as "Bill,"	Elster 8-3718
X DANIEL EDWARD WASHINGTON and X STEPHANIE	916-743-8420
PAIGE BAKER	For Defendant: WASHINGTON:
	Sidney Schmukler
	121 Schermerhorn St.
	Bklyn, NY.
	UL 2-4693
Bank Robbery	

ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED AND DISBURSED			
		DATE	NAME	RECEIVED	DISBU
Fine,					
Clerk,					
Marshal,					
Attorney,					
Commissioner's Court,					
Witnesses,					

DATE	PROCEEDINGS
6/17/71	Before Travia, J.-Indictment filed. 1
6/17/71	By Travia, J.-Bench Warrant Ordered/Issued (MOORE)
6-22-71	Magistrate's file 71M824 inserted into criminal file. (BAKER)
JUN 24 1971	BEFORE TRAVIA, J., Case Called - Defendant MOORE not present -
	All other defts and counsels present - defts arraigned and each
	enter pleas of not guilty - all bail reduction applications
	denied.
6-24-71	Notice of Appearance filed(WASHINGTON)
6-24-71	Notice of Appearance filed (BOSTON & BAKER)
7-9-71	Voucher for compensation filed. (BOSTON)
8-6-71	Government's affidavit in opposition filed.
8-11-71	Notice of Motion filed, ret. 8-27-71, for suppressing evidence,
	for reduction of bail as to defts. add Bill of Particulars, etc.



# 71CR 682

DATE	PROCEEDINGS
8-16-71	Notice of motion filed for an order granting discovery and inspection etc ret. 8-27-71. (WASHINGTON)
25-71	Govts affidavit/in <sup>filed</sup> opposition to defts motion for Discovery, etc. (Washington)
-27-71	Before RAYFIEL, J.-Case called-Motion argued-Granted and denied as indicated Settle order on notice-Set down for trial on 9-13-71.(Washington, Boston & Ba
-27-71	By Rayfiel, J - Order filed granting motion or denied in part, as indicated(see Motion papers) Boston & Baker(for suppressing evidence
27-71	By Rayfiel, J - Motion for Discovery, etc. motion granted or denied <sup>suppression, wire-tap etc.</sup> in part, as indicated (see Motion papers)deft Washington
-1-71	Notice of Motion filed for suppressng evidence, etc. <i>File 2. 10/1/71</i>
-2-71	By RAYFIEL, J - Order filed on defts motion (Washington) is granted to the following extent: the Govt shall at least 10 days prior to the trial date which has been set for Sept. 13, 1971, permit the counsel for the deft to inspect the physical evidence; (see Order for details) and further ordered on consent of the Govt that a Wade hearing and a suppression hearing with respect to evidence and statements taken from the deft be held prior to the selection of the jury on the date of trial and that the Govt will furnish to defts counsel all information of whatever source, form or nature which tends to exculpate the deft etc. Further Ordered that in all other respects, this motion is denied. (p/c mailed)
-13-71	Before Rayfiel, J - Wade hearing commenced and adjd to 9-14-71.
-14-71	Before Rayfiel, J - Wade Hearing concluded - Motions denied - Miranda & Mapp hearings adjd to 9-15-71 at 10:00 am. - defts in custody. (BOSTON , BAKER & WASHINGTON)
9-15-71	Before RAYFIEL, J.-Defts present-"Miranda"hearing commenced-Counsels present Case adjd to 9-16-71-"Miranda"hearing to be cont'd .
9-16-71	Before Rayfiel, J - Case called - Miranda Hearing continued - Defts. BOSTON, BAKER & WASHINGTON present with counsels - Hearing continued to 9-22-71 at 10:30 am.
9-22-71	Before Rayfiel, J - Case called - Defts present with counsels - Case adjd to 9-23-71.
9/24/71	Deft BOSTON's letter of 9/10/71 filed.
9/24/71	Before Rayfiel, J.-Case Called-Defts. & counsel present-Deft WASHINGTONS sundry motions to suppress-Decision reserved-Deft BOSTON moves to accept plea of guilty to cts 2 & 5 of indictment-Plea accepted-Deft Baker moves to plead guilty to 71CR1027-Plea accepted & presentence report waived-Imp. of sentence is suspended-Deft. placed on probation for 18 mos (BAKER).



DATE	PROCEEDINGS
9/24/71	Judgment & Order of probation filed. (BAKER) Certified copies to probation. (71 CR-1027)
10-4-71	Stenographer's transcript filed (dated 9-23-71).
10-7-71	Stenographer's transcripts dated 9-13-71, 9-14-71 and 9-22-71 (pgs 1 filed.
12-3-71	Before RAYFIEL, J - Case called - Deft WASHINGTON & counsel Sidney Schmuckler present - Deft sentenced to 12 years imprisonment pursuant to 18:4208(a)(2). On motion of Asst Accetta counts 2 and 5 are dismissed.
12-3-71	Judgment & Commitment filed - certified copies to Marshal. (WASHINGTON)
12-3-71	Before RAYFIEL, J - Case called - Deft BOSTON & counsel present. Deft sentenced to 20 years imprisonment on count 2 and 5 years imprisonment on count 5 - to run concurrently with sentence on count (2) -
12-3-71	Judgment & Commitment filed (BOSTON) Certified copies to Marshal.
12-3-71	Before RAYFIEL, J - Case called - On motion of Asst Accetta the Indictment is dismissed as to deft. BAKER.
12-3-71	By RAYFIEL, J - Order of Dismissal filed (BAKER)
2-16-72	Petition for Writ of Habeas Corpus Ad Prosequendum filed (BOSTON)
2-16-72	By Rayfiel, J - Writ Issued, ret. 2-23-72) Boston.
2/25/72	Notice of Motion filed for Inspection at gov't expense (BOSTON) ret. 3/3/72.
2/25/72	Before RAYFIEL, J. - On consent of counsel, motion adj'd to 3/3/72.
3-21-72	Notice of Motion filed under Rule 35 for reduction of sentence imposed as to deft WASHINGTON (ret. March 24, 1972)
3-28-72	Before KRAYFIEL, J - Deft Washington & counsel Sidney Shmukler present - motion for reduction of sentence under Rule 35 heard - application granted to extent that deft is adjudicated to be a Youth Offender to be committed under 18:USC 5010(b) until discharged by the Youth Div. of the Board of Parole pursuant to the provisions of 18, U.S.C.A. 5017(c) Copies to U.S. Marshal
3-28-72	Writ returned and filed - Executed (Boston)
7-17-72	Before DOOLING, J. - Case called - Deft ERNEST MOORE produced on Bench w Counsel not present - Bail set at \$150,000 surety bond.
7-19-72	Bench warrant returned & filed/executed.
	<i>16-17</i>

## DATE

## PROCEEDINGS

MOORE

- 25-72 Before RAYFIEL, J - Case called - Deft present without counsel - court appointed Allan Lashley to represent the deft and entered a plea of not guilty on behalf of the deft - Bail continued.
- 1/20/72 Before MISHLER, CH. J.- Case called- Order to be submitted for a psychiatric examination for deft Moore on application by the defts. counsel.
- 5-73 4 Volumes of stenographers transcripts (BOSTON) pages 1 to 817 removed from this file and forwarded with -72 C-54 relating case with their Index to Record on Appeal.
- 3/16/73 Notice of Readiness for Trial filed.
- /26/73 Stenographer's transcript of 8/27/71 filed.
- /23/73 Stenographer's transcript of 12/3/71 filed.
- 30-73 Notice of Motion filed, rect. May 4, 1973, for an order appointing a qualified psychiatrist to inquire into the competence of the deft etc (copy mailed to Clerks Office) *Moore*
- /4/73 Before RAYFIEL, J.- Case called- Deft and counsel present-Motion for appointment of psychiatrist granted-Order to be submitted.
- 15-73 By RAYFIEL, J - Order filed that Gustave Weiss, Esq. atty for deft Moore is hereby authorized to employ Dr. Martin Lubin, Booth Memorial Hospital, Flushing, N.Y. and to inquire into the defts competence to understand the proceedings against him or to properly assist in his own defense, etc. and that the cost of his services shall be borne by the United States.
- 7;23/73 Judgment recd and filed from the C. of A. that the action be and it is hereby remanded to said district court to permit a withdrawal by the appellant of the plea of guilty. Judge notified. (BOSTON)



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA,

-against-

NOTICE OF APPEAL

71 CR 682

JOHN BOSTON

Defendant  
-----x

Name and address of Appellant:

John Matthew Boston  
a/k/a Sam Boston  
Federal House of Detention  
427 West Street  
New York, N.Y.

Name and address of Appellant's  
Attorney

McCarthy & Dorfman  
1527 Franklin Avenue  
Mineola, N.Y. 11501

Offenses: Armed Bank Robbery (18 U.S.C. sec. 2113 (d))  
Bank Robbery (18 U.S.C. sec. 2113(a))

Verdict: Guilty to both counts.

Judgment of Conviction:

Twenty years imprisonment on each  
count, to be served concurrently  
under 18 U.S.C. sec. 4208(a)(2)  
(Costantino, J.) April 5, 1974

The above-named defendant, with counsel assigned  
under the Criminal Justice Act, hereby appeals to the United  
States Court of Appeals for the Second Circuit from the  
above judgment of April 5, 1974

McCarthy & Dorfman  
1527 Franklin Avenue  
Mineola, New York 11501  
(516) 746-1616

DATED: MINEOLA, NEW YORK  
APRIL 8, 1974

